

**AN ORDINANCE AMENDING CHAPTER 21 OF THE MEMPHIS CITY
CODE OF ORDINANCES GOVERNING MOTOR VEHICLES AND TRAFFIC
SO AS TO REGULATE VALET PARKING SERVICES**

WHEREAS, the City of Memphis continues to experience significant problems with valet service operators parking vehicles upon property owned by the City of Memphis; and

WHEREAS, the administration and this Council have received numerous complaints from the citizens of Memphis regarding the inability to park in spaces designated by the City for members of the public; and

WHEREAS, the City Engineer is currently authorized by Chapter 21 of the Memphis Code to regulate or prohibit the parking of vehicles upon property owned by the City; and

WHEREAS, in an effort to remedy this ongoing problem with valet service operators, this Council along with the administration deems it in the best interest of the public that this ordinance be adopted.

NOW, THEREFORE BE IT ORDAINED by the City Council of the City of Memphis that:

Chapter 21, Article IV of the Memphis City Code of Ordinances is hereby amended to add the following new sections to read as follows:

DIVISION 1(A). VALET PARKING.

Sec. 21-161. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this article, except where the context clearly indicates a different meaning:

Permit or Valet parking permit means the permit issued by the Division of Engineering allowing a person to conduct a valet parking service.

Valet operator means (a) a person whose business is served by valet parking service, (b) a person who provides valet parking service, and (c) any employee or agent of a person described in (a) or (b) who provides, or participates in the provision of valet parking service. For purposes of this Chapter, valet operator shall not mean the City of Memphis or a person acting on behalf of the City of Memphis.

Valet parking service means accepting possession of a vehicle for the purpose of parking the vehicle for the operator or retrieving a parked vehicle and returning it to the operator, regardless of whether a fee is charged.

Sec. 21-162. Permits.

(a) *Permit required.* No valet parking service is permitted unless a permit allowing such activity has been issued pursuant to this section. The City of Memphis through its Division of Engineering shall issue parking permits to valet operators to conduct their operations as a commercial enterprise or in furtherance of a commercial enterprise. No valet parking shall occur without the valet operator securing a valet parking permit from the Division of Engineering, except that parties conducting or offering valet parking services on a short-term, infrequent and/or occasional basis in connection with private parties or special events outside the Central Business Improvement District (CBID) shall not be required to obtain a permit. A separate permit is required for each location where valet parking services are provided. Valet operators engaged in valet parking under contract or otherwise on behalf of others, except as excepted above, shall be required to obtain a separate permit. Permits will be issued only for locations where valet parking would not be detrimental to the public safety, health and welfare of the inhabitants of the City of Memphis and only after approval of the City Engineer.

(b) *Permit application.* An application for a valet parking permit shall be made in writing on a form prescribed by the City Engineer and submitted to the City Engineer's office along with payment of the permit fee in the amount of fifty dollars (\$50.00). Failure to provide such permit fee upon the submission of the application shall result in a rejection of the application. All permit fees will be deposited into the parking fee revenue fund of the City of Memphis.

In addition to the permit fee, the application must contain the following information:

- (1) the name, address, and telephone number of the business(es) to be served by the valet parking service and, if separate from the business to be served, the owner/operator of the valet parking service;
- (2) a written justification of the need for valet parking service by the business to be served;
- (3) a scale drawing of the location and limits of the proposed valet parking service activities, including an identification of any on-street parking spaces or loading zones to ensure that these areas would not be affected by the activities;
- (4) an operation plan that includes the days and times when valet parking services will be provided and the location where valet customer vehicles will be parked;
- (5) an indemnity and release form as prescribed by the City Engineer and approved by the City Attorney;
- (6) proof of insurance as required by the City Engineer;
- (7) any other information reasonably required by the City Engineer; and

- (8) payment of a non-refundable application fee.

The permit application and fee requirements of this section shall also apply to permit renewals.

(c) *Permitting criteria.* The City Engineer shall issue or deny a valet parking permit taking into consideration the following factors:

- (1) whether the application is complete;
- (2) the extent to which the valet parking service might unreasonably disrupt the flow of pedestrian and vehicular traffic, including the location of the proposed valet parking service in relationship to traffic control devices;
- (3) the extent to which the valet parking service might unreasonably interfere with or impinge upon on-street parking;
- (4) the proximity of traditional on-street and off-street parking to the business to be served by the valet parking service;
- (5) the proximity and relationship to any other previously permitted valet parking service; and
- (6) payment of the permit fee

A permit shall specify (i) the business served; (ii) the location and limits of the valet parking service activities; (iii) the days and times when the valet parking service is permitted and the location where valet customer vehicles will be parked; (iv) any additional restrictions or requirements regarding the location or operation of the valet parking service; (v) identification tag requirements for valet operators; (vi) the permit expiration date; and (vii) any other conditions on the permit.

(d) *Modification and revocation.* The City may modify or revoke a permit issued pursuant to this section at any time in the interest of the public health, welfare and safety upon violation of this Chapter or the permit requirements included herein.

(e) *Temporary suspension.* The City may temporarily suspend a permit issued pursuant to this section when warranted by traffic conditions or anticipated traffic conditions.

(f) *No rights established.* Nothing in this article is intended to establish any legal right to provide a valet parking service or any legal property interest in a valet parking permit. Valet parking permits and privileges may not be transferred.

Sec. 21-163. Conditions of valet parking permits.

(a) *Hold Harmless.* Each valet parking operator applying for a permit shall execute an agreement approved by the City of Memphis City Attorney providing for the valet

operator to indemnify and hold harmless the City of Memphis for any and all claims against the City resulting from the actions of the Valet Operator, including without limitation, claims of property damage or expenses resulting from the valet operator's violation of this Chapter or any applicable ordinance.

(b) *Term.* The term of each permit shall be for one year. Renewal shall be on an annual basis and shall be granted after confirmation of extension of all applicable permit requirements established in this chapter and payment of applicable fees.

Sec. 21-164. Cancellation of Permit

(a) A valet parking permit may be canceled by the City Engineer under the following circumstances:

1. The City of Memphis determines that the valet operation is creating a hazardous traffic condition and/or serious disruption of traffic flow or is otherwise inimical to the public health, safety and welfare;
2. Parking is no longer permitted in the area where valet service is provided;
3. The valet parking operator repeatedly fails to comply with the rules and regulations established by the City of Memphis and/or the provisions of this chapter or otherwise creates a situation that is inimical to the public health, safety and welfare.

(b) Cancellation pursuant to subparagraph (3) of this section shall preclude the valet parking operator, a general partner, or immediate family member of the operator from being issued a valet parking permit for any location for a period of one (1) year if the operator whose license has been canceled has any participation in the operation, management and/or maintenance of the valet parking operation(s) for which the permit application is being made.

(c) When a permit is canceled by the City Engineer pursuant to subsection (a) of this section, the City Engineer shall immediately provide the permit holder written notice by certified mail of the cancellation and the reasons for the cancellation.

Sec. 21-165. Valet parking operations.

(a) Valet services shall be operated in accordance with the terms of the Permit approved by the City Engineer. Valet service on public property shall not be permitted in any location other than for immediate loading and unloading of passengers in a zone established under Sections 21-149 and 21-150 by the City Engineer. Each valet service operator shall utilize an approved off-street parking facility for the parking of each valet vehicle.

(b) An ADA accessible passenger loading and unloading area meeting ADA standards shall be provided.

(c) Valet parking is not permitted in any alley, on-street public parking space or where otherwise prohibited by law, unless previously approved in writing by the City Engineer.

(d) The permit holders are responsible for reimbursing the City of Memphis for the cost of installing any signs, notices or warnings deemed necessary for the establishment of valet parking operations. Permit holders will be billed for any required installation by the Division of Engineering.

Sec. 21-166. Employees.

The valet parking operator shall require all employees who operate motor vehicles to have in their possession at the time of such operation a valid Tennessee driver's license.

Sec. 21-167. Violations.

(a) It shall be unlawful for a valet operator to provide or engage in valet parking service without a valid valet parking permit issued pursuant to this article. A valet parking permit that has expired or that has been suspended or revoked is not a valid permit.

(b) It shall be unlawful for a valet operator to provide or engage in valet parking service in violation of the terms and conditions of a valet parking permit issued to the valet parking service.

(c) It shall be unlawful for a valet operator to block, stop or direct traffic.

Sec. 21-168. Enforcement.

(a) The permit of any valet operator that violates this chapter shall be subject to suspension upon the first violation, and revocation upon the second violation along with the imposition of a civil penalty in the amount of \$50.00.

(b) All fines paid pursuant to this section will be deposited into the parking revenue fund of the City of Memphis.

(c) Valet parking operators shall pay all fines and fees, including towing charges, arising in connection with a valet patron's vehicle which is in the possession of the valet parking operator at the time such fine, fee or charge is incurred. This does not preclude the valet parking operator from also being cited for violations of this chapter which resulted in the imposition of the fines and fees.

Sec. 21-169. Appeals.

The denial, modification, revocation, or suspension of a valet parking permit, and the issuance of civil penalties, may be appealed to the City of Memphis Transportation Board within ten (10) days of receipt of notice of such action taken by the City Engineer's Office. A ruling on appeal is subject to further review by the Shelby County courts by proceedings in the nature of certiorari. Any petition for writ of certiorari for review shall be filed with the Court within sixty (60) days after notice of the decision has been sent to the appellant.

SECTION 2. BE IT FURTHER ORDAINED, that the provisions of this Ordinance are hereby severable. If any of these sections, provisions, sentences, clauses, phrases, or parts are held unconstitutional or void, the remainder of this Ordinance shall continue in full force and effect.

SECTION 3. BE IT FURTHER ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS, that this ordinance shall take effect on the later of after it is passed by the Council, signed by the Chairman of the Council, certified and delivered to the Office of the Mayor in writing by the comptroller and become effective as otherwise provided by law.

HAROLD COLLINS
Council Member

MYRON LOWERY
Council Chairman

Attest:
Patrice Thomas, Comptroller